

March 15, 2004

Basil S. Williams
President
BND Engineers, Inc.
1200 N.W. 78th Avenue
Suite 400
Miami, Florida 33126

RE: REQUEST FOR ADVISORY OPINION 04-35

Dear Mr. Williams:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 10, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any potential conflicts of interest related to serving as Program Management Consultant for the People's Transportation Plan.

Miami-Dade County recently issued a Notice to Professional Consultants for a Program Management Consultant for the People's Transportation Plan. The Program Management Consultant (PMC) will hold a non-exclusive seven-year contract with Miami-Dade County to manage, with the support and supervision of Transit and Public Works staff, the various phases of implementing the People's Transportation Plan. Specifically, the Scope of Services requires the PMC to be responsible for short and long-range transit

planning, facilities planning, feasibility studies, oversight of construction, engineering and inspection consultants and design criteria and standards. Transit will hire additional firms to do the actual design and construction inspection work but they will work under the direction of the Program Management Consultant team. As noted in the NTPC and our review of this matter, it is the intention of the County that the Program Management Consultant act as county staff in the areas for which the Consultant will provide staff and technical assistance. The contract should be awarded in the summer of 2004.

The People's Transportation Plan consists of several projects including highway and road improvements, bus service improvements and neighborhood improvements. The heart of the project is several rapid transit improvements including:

- Ø The North Corridor- The North Corridor will run from the Dr. Martin Luther King Jr. Metrorail Station (N.W. 27th Avenue and 62nd Street) along N.W. 27th Avenue to 215th Street.
- Ø The East West-Corridor- The East-West Corridor consists of two segments from the Florida Turnpike east to the Palmetto Expressway and from the Palmetto through Miami International Airport and Downtown Miami and to the Port of Miami-Dade
- Ø Baylink- A corridor between downtown Miami and Miami Beach
- Ø Kendall Corridor- A corridor with east-west and north-south elements

Preliminary studies and design work has already been conducted on these corridors. As noted in more detail below, BND Engineers has taken part in these studies on behalf of the Miami-Dade Expressway Authority.

Pursuant to Section 2-11.1(w), the Ethics Commission has jurisdiction over contractors

and vendors. Section 2-11.1(j) restricts persons covered by the Conflict of Interest and Code of Ethics ordinance from doing work that conflicts with their independence of judgment in performing their County responsibilities. Pursuant to that section of the Conflict of Interest and Code of Ethics ordinance, the Ethics Commission has delineated certain areas including overlapping responsibilities that would impair a contractor's independent judgment in the performance of its duties for the County. The analysis of potential conflicts, in this case, is generally limited to the requestor's contracts with Miami-Dade Transit and does not analyze potential conflicts with contracts with other agencies.

In your request, you informed the Ethics Commission that BND Engineering served as a subconsultant to Dade Transportation Consultants. Dade Transportation Consultants serves as the General Consultant to the Miami-Dade Expressway Authority. BND Engineering has not worked for Dade Transportation Consultants on this contract for two years.

The Ethics Commission found that BND Engineers may serve as Program Management Consultant for the People's Transportation Plan because the firm is not currently providing architectural and engineering services to the Transit Department. Any potential conflict with the subconsultant agreement with Dade Transportation Consultants is outside the scope of this opinion.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) at (305) 350-0616. or Robert Meyers, Executive Director at (305) 579-2594.

Sincerely Yours,

ARDYTH WALKER
Staff General Counsel

cc: Luisa Millan Donovan, CICC